

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/745,363
Applicant: Kostrzewski *et al.*
Filed: December 21, 2000
Title: Method of Isomorphic Singular Manifold Projection
Still/Video Imagery Compression

Group Art Unit: 2621
Confirmation No.: 2371

Docket No.: 16LP-134177
Examiner: Sherali, Ishrat I

**DECLARATION OF DANIEL YANNUZZI IN SUPPORT OF
PETITION FOR REVIVAL OF ABANDONED APPLICATION
UNDER 37 C.F.R. § 1.137**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Daniel N. Yannuzzi, declare as follows:

1. I am an attorney licensed to practice law in the State of California and I am a partner at the law firm of Sheppard, Mullin, Richter & Hampton. I am registered to practice before the United States Patent and Trademark Office (USPTO).
2. Sheppard, Mullin, Richter & Hampton represents the Physical Optics Corporation, which is the owner of the entire right, title, and interest in U.S. Patent Application No. 09/745,363, filed on December 21, 2000 and entitled "Method of Isomorphic Singular Manifold Projection Still/Video Imagery Compression."
3. I am informed and believe that the Physical Optics Corporation takes reasonable steps to ensure timely response to communications (e.g., Office Actions) from

the USPTO. To this end, the Physical Optics Corporation relies on outside counsel for all matters relating to docketing, prosecution and maintenance of its patents and patent applications worldwide. The Physical Optics Corporation receives and relies on regular status reports from outside counsel detailing statuses, actions due, fees due and deadlines for all worldwide patents and applications.

4. I am informed and believe that at the time this patent application went abandoned for failure to timely file a proper reply, Leonard Tachner at The Law Offices of Leonard Tachner was outside counsel for Physical Optics Corporation, and was responsible for the items outlined in paragraph 3, above.

5. I am informed and believe that Mr. Tachner is an attorney licensed in the state of California and registered to practice before the United States Patent and Trademark Office.

6. I am informed and believe that Mr. Tachner uses a docketing system to track actions and their associated due dates.

7. I am informed and believe that Mr. Tachner sent to the Physical Optics Corporation a status letter dated September 20, 2002 to report the September 11, 2002 Office Action. In the letter, Mr. Tachner expressly stated that he shall prepare a Reply to the Office Action prior to the due date.

8. I am informed and believe that the Physical Optics Corporation has never received any communication from Mr. Tachner indicating that the above patent application has been or will become abandoned.

9. I am informed and believe that the Physical Optics Corporation did not at anytime authorize or instruct Mr. Tachner to allow the patent application to go abandoned.

10. I am informed and believe that on or about August of 2007, the Physical Optics Corporation learned that numerous patent matters, including the above patent application, that Mr. Tachner was responsible for may have gone abandoned even though the Physical Optics Corporation did not receive any communication from Mr. Tachner to indicate that such matters may have gone abandoned or would become abandoned.

11. I am informed and believe that the Physical Optics Corporation immediately attempted to contact Mr. Tachner to investigate whether the status reports they had been receiving were accurate and to determine the extent of any inaccuracies. Mr. Tachner failed to return their calls or answer their inquiries.

12. I am informed and believe that because Mr. Tachner was not responsive to the Physical Optics Corporation's repeated inquiries, in September of 2007 the Physical Optics Corporation undertook a search for new counsel to handle their patent matters.

13. In October of 2007 the Physical Optics Corporation retained Sheppard Mullin Richter & Hampton as their new intellectual property counsel and initiated a transfer of all of their patent files to Sheppard Mullin Richter & Hampton.

14. Sheppard, Mullin, Richter & Hampton immediately undertook a thorough investigation of the entire docket of intellectual properties and learned that the subject patent had been abandoned for failure to pay maintenance fees.

15. During October and early November of 2007, I made repeated attempts to contact Mr. Tachner regarding the abandonment. Mr. Tachner has refused and continues to refuse to answer his telephone or to return my telephone calls. Nonetheless, I worked diligently through his assistant to obtain a signed declaration of Mr. Tachner that the failure to reply to the Office Action was due to a docketing error and was unavoidable.

16. On December 5, 2007, I received from Mr. Tachner's assistant a declaration signed by Mr. Tachner stating that the failure to reply to the Office Action was due to a docketing error and was unavoidable and unintentional.

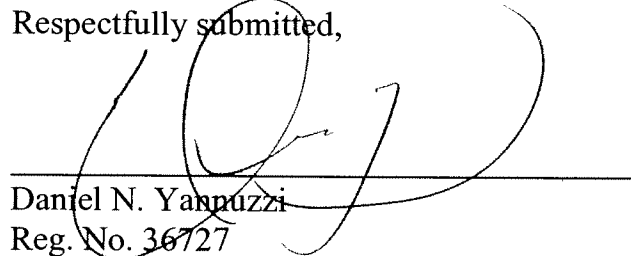
17. Accordingly, I am informed and believe that the entire delay in appropriately replying to the September 11, 2002 Office Action until the filing of the grantable petition included herewith for the above-referenced patent was unavoidable and unintentional.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: _____

12/6/7

Respectfully submitted,



Daniel N. Yannuzzi
Reg. No. 36727

Sheppard, Mullin, Richter & Hampton